

IN THE CHANCERY COURT OF LEWIS COUNTY
AT HOHENWALD, TENNESSEE

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In Re: Sentinel Trust Company

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Case No. 4781

**MOTION TO INTERVENE AND ORDER TRANSFER OF PROPERTY AND
RECORDS TO SUCCESSOR TRUSTEE**

Now comes Madison Health Partners, LLC, ("Madison") Beckley Health Partners, LLC, ("Beckley"), Athens Health Partners, LLC, ("Athens"), Barboursville Health Partners, LLC, ("Barboursville"), Jackson Health Partners, LLC, ("Jackson") and Gallia Health Partners, LLC, ("Gallia") and Ashland Assisted Living, Inc. ("Ashland") (collectively referred to as the "Borrowers") by and through Chancellor Health Partners, Inc. ("Chancellor") and Lutheran Social Services of Central Ohio, Inc., ("LSS") the managing members of the Borrowers, and moves to intervene in this proceeding and prays for the entry of an Order authorizing and directing Receivership Management, Inc.'s (the "Receiver") to (i) execute and deliver an instrument or document transferring to The Bank of Oklahoma (the "successor Trustee") all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of Sentinel Trust Company, as the predecessor Trustee, Registrar and Paying Agent; (ii) to take any other action necessary to duly assign, transfer and deliver to the successor Trustee all property (excluding funds

which may be on deposit in the Pooled Trust Account¹; and, (iii) take any other action necessary to duly assign, transfer and deliver to the successor Trustee all property and records (including without limitation, the Register and any cancelled Bonds) held by Sentinel. In support thereof, the Borrowers, Chancellor and LSS state the following:

Background

1. Sentinel Trust Company ("Sentinel") is a Tennessee corporation, located in Hohenwald, Lewis County, Tennessee, engaged in various fiduciary activities.

2. In connection with various Trust Indentures², Sentinel served as the Indenture Trustee, Registrar and Paying Agent with respect to the following:

(a) Trust Indenture between the County Commission of Raleigh County and Sentinel Trust Company dated as of May 1, 1998, securing The County Commission of Raleigh County \$3,950,000 Multifamily Housing Mortgage Revenue Bonds, Series 1998, consisting of \$3,550,000 Convertible Multifamily Housing Mortgage Revenue Bonds, Series 1998A and \$400,000 Taxable Multifamily Housing Mortgage Revenue Bonds, Series 1998B (Beckley Health Partners, Ltd. Project) as supplemented on September 1, 2002 to include The County Commission of Raleigh County \$7,500,000 Multifamily Housing Mortgage Revenue Bonds, Series 2002, consisting of \$6,650,000 Multifamily Housing Mortgage Revenue Bonds, Series 2002A and \$850,000 Taxable Multifamily Housing Mortgage Revenue Bonds, Series 2002B (Beckley Health Partners, Ltd. Project);

(b) Trust Indenture between the County of Madison, Ohio and Sentinel Trust Company dated as of February 1, 1997, securing The County of Madison, Ohio \$2,700,000 Multifamily Housing Mortgage Revenue Bonds, Series 1997 consisting of \$2,360,000 Multifamily Housing Mortgage Revenue Bonds, Series 1997A and \$340,000 Multifamily Housing Taxable Mortgage Revenue Bonds, Series 1997B (Madison Health Partners, LLC Project), as supplemented on September 1, 2002 to include The County of Madison, Ohio \$4,200,000 Multifamily Housing Mortgage Revenue Bonds, Series 2002 consisting of \$3,770,000 Multifamily Housing Mortgage Revenue Bonds, Series 2002A and \$430,000 Taxable Multifamily Housing Mortgage Revenue Bonds, Series 2002B (Madison Health Partners, LLC Project);

¹ Your Movants recognize the inability of the Receiver to currently distribute trust funds on deposit in the SunTrust Pooled Trust account, but reserve all their rights to receive a distribution from the estate at a later date.

² Copies of the Trust Indentures are voluminous and therefore are not attached as Exhibits hereto. However, copies are available and will be provided upon request.

(c) Trust Indenture between the County of Athens, Ohio and Sentinel Trust Company dated as of September 1, 1998, securing The County of Athens, Ohio \$3,950,000 Multifamily Housing Mortgage Revenue Bonds, Series 1998 consisting of \$3,000,000 Multifamily Housing Mortgage Revenue Bonds, Series 1998A, \$550,000 Convertible Multifamily Housing Mortgage Revenue Bonds, Series 1998B and \$400,000 Taxable Mortgage Revenue Bonds, Series 1998C (Athens Health Partners, LLC Project);

(d) Trust Indenture between the County Gallia, Ohio and Sentinel Trust Company dated as of August 1, 1999, securing The County of Gallia, Ohio \$4,500,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999 consisting of \$4,000,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999A and \$500,000 Taxable Multifamily Housing Mortgage Revenue Bonds, Series 1999B (Gallia Health Partners, LLC Project);

(e) Trust Indenture between the Village of Barboursville, West Virginia and Sentinel Trust Company dated as of April 1, 1999, securing The Village of Barboursville, West Virginia \$4,375,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999 consisting of \$3,875,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999A and \$500,000 Taxable Multifamily Housing Mortgage Revenue Bonds, Series 1999B (Barboursville Health Partners, LLC Project);

(f) Trust Indenture between the County of Jackson, Ohio and Sentinel Trust Company dated as of August 1, 1999, securing The County of Jackson, Ohio \$4,500,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999 consisting of \$4,000,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999A and \$500,000 Taxable Multifamily Housing Mortgage Revenue Bonds, Series 1999B (Jackson Health Partners, LLC Project); and

(g) Trust Indenture between the County of Ashland, Ohio and Sentinel Trust Company dated as of November 1, 1999, securing The County of Ashland, Ohio \$4,750,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999 consisting of \$4,220,000 Multifamily Housing Mortgage Revenue Bonds, Series 1999A and \$530,000 Multifamily Housing Taxable Mortgage Revenue Bonds, Series 1999B (Ashland Assisted Living, Inc. Project);

3. On May 3, 2004, the Commissioner of the Tennessee Department of Financial Institutions ("Commissioner") issued an Emergency Cease and Desist Order ("Order") directing Sentinel to cease and desist from engaging in unsafe and unsound banking

practices.³ The Order found that Sentinel had used pooled fiduciary funds to provide operating capital for non-related defaulted bond issues, thereby creating a fiduciary cash shortfall that exceeded Sentinel's operating capital. The Order also found that Sentinel failed to reconcile its fiduciary cash and corporate cash accounts in a timely and accurate fashion and to keep accurate books and records. Importantly, the Order specifically ordered Sentinel to immediately cease and desist from:

"Engaging in the practice of using the pooled fiduciary funds to provide operating capital for non-related bond issues; . . ."

The Order also required Sentinel to make an infusion of \$2,000,000 in capital by May 17, 2004 to partially replenish the fiduciary pooled demand deposit account and submit a capital plan outlining plans to completely replenish the fiduciary pooled demand deposit account.

4. Thereafter, Sentinel failed to provide the Commissioner with additional capital or a capital plan as required by the Order, to demonstrate how Sentinel would make the pooled fiduciary account whole.

5. As a result, on May 18, 2004, the Commissioner took emergency possession of Sentinel pursuant to Tenn. Code Ann. §§ 45-2-1502(b)(2) and (c)(1) and the same day, appointed Receivership Management, Inc. as the Receiver.

6. Since taking possession of Sentinel, the Commissioner, through his staff and the appointed Receiver, determined that Sentinel had a fiduciary cash shortfall in an

³ A copy of this Order was attached as Exhibit I to the Commissioner's Petition for Approval of Payments to Bondholders, filed May 27, 2004.

amount ranging from \$7,612,218 to \$8,430,722 as of May 18, 2004.⁴ Further, the Commissioner determined that Sentinel was insolvent in an amount of at least \$6,225,000.

7. As a result of these determinations, on June 18, 2004, the Commissioner issued a Notice of Liquidation of Sentinel in accordance with the provisions of Tenn. Code Ann. §§ 45-2-1502(c)(2) and 1504.

The Motion

8 Each of the Trust Indentures specifically provides that in the event the Sentinel was taken under control of any public officer or officers, or in the event a receiver is appointed for Sentinel by a court, the Issuer shall appoint, with the written consent of the Borrower, a successor Trustee. In the present case, both triggering events have occurred. Specifically, Sentinel was taken under control by the Commissioner on May 18, 2004 and a receiver was appointed.

9. In addition, each of the Trust Indentures also provided the Borrower the right, upon notice, to replace the Sentinel, with or without cause.

10. Since the commencement of this case, the following actions were taken:

(a) At the request of the Borrower, on July 20, 2004, the County Commission of Raleigh County appointed the Bank of Oklahoma as successor Trustee. The Borrower, Beckley Health Partners, Ltd., consented to the appointment of the successor Trustee on June 22, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "A".

⁴ See Commissioner-in-Possession's Petition for Approval of Payments to Certain Bond Holders, together with the attached Affidavit of Wade McCullough.

(b) At the request of the Borrower, on July 19, 2004, the County Commission of Madison County appointed the Bank of Oklahoma as successor Trustee. The Borrower, Madison Health Partners LLC, consented to the appointment of the successor Trustee on June 22, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "B".

(c) At the request of the Borrower, on July 13, 2004, the County of Athens, Ohio appointed the Bank of Oklahoma as successor Trustee. The Borrower, Athens Health Partners, Ltd., consented to the appointment of the successor Trustee on June 22, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "C".

(d) At the request of the Borrower, on July 15, 2004, the County of Gallia, Ohio appointed the Bank of Oklahoma as successor Trustee. The Borrower, Gallia Health Partners, Ltd., consented to the appointment of the successor Trustee on June 22, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "D".

(e) At the request of the Borrower, on July 13, 2004, the Village of Barboursville, West Virginia appointed the Bank of Oklahoma as successor Trustee. The Borrower, Barboursville Health Partners, Ltd., consented to the appointment of the successor Trustee on June 22, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "E".

(f) At the request of the Borrower, on July 15, 2004, the County of Jackson, Ohio appointed the Bank of Oklahoma as successor Trustee. The Borrower, Beckley Health Partners, Ltd., consented to the appointment of the successor Trustee on June 25, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as

Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "F".

(g) At the request of the Borrower, on July 15, 2004, the County of Ashland, Ohio appointed the Bank of Oklahoma as successor Trustee. The Borrower, Beckley Health Partners, Ltd., consented to the appointment of the successor Trustee on July 10, 2004 and the Bank of Oklahoma has accepted the appointment and agreed to act as Trustee and as Registrar, Paying Agent and Authenticating Agent for the Bonds in accordance with the terms and conditions of the Indenture. A true and accurate copy of the Request to Appointment Successor Trustee, Appointment of Successor Trustee, Consent of the Borrower and Acceptance of Appointment as Successor Trustee is attached hereto, incorporated herein and marked as Exhibit "G".

Exhibits A through G are true and correct copies of the original documents executed by the Borrowers, Issuers and successor Trustee as attended to by George R. Sarkis⁵.

11. Pursuant to the terms of the Indenture Trusts, once a successor Trustee accepts the appointment, the successor Trustee is automatically vested with all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of its predecessor.

12. Further, pursuant to the express terms of the Indenture Trusts, upon written request of the successor Trustee, the Issuer, or the Borrower, Sentinel is required to:

(i) execute and deliver an instrument or document transferring to its successor all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of the predecessor Trustee;

⁵ The Affidavit of George R. Sarkis, dated July 29, 2004, is attached hereto, incorporated by reference herein and marked as Exhibit H.

(ii) take any other action necessary to duly assign, transfer and deliver to its successor all property (including without limitation, all securities and moneys) held by it as Trustee;

(iii) execute and deliver an instrument or document transferring to its successor all of the properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, titles and interests of it as predecessor Registrar; and

(iv) take any other action necessary to duly assign, transfer and deliver to its successor all property and records (including without limitation, the Register and any cancelled Bonds) held by it as Registrar.

13. In accordance with and pursuant to the terms of the Trust Indentures, certain trust funds and trust accounts were established to be held by Sentinel. Prior to May 18, 2004, the Borrowers had individually and collectively deposited in trust \$2,459,545.04 (the "Borrowers' Trust Funds") with Sentinel. These funds have not been disbursed pursuant to the terms of the Trust Indentures.

14. Prior to May 18, 2004, Sentinel maintained a fiduciary checking account with SunTrust Bank designated as Account #4049233 (hereinafter referred to as the "Pooled Trust Account").

15. The Borrowers have been advised that the Borrowers' Trust Funds were deposited by Sentinel in the Pooled Trust Account. As of June 15, 2004, the Pooled Trust Account had a cash balance of \$1,688,444.00.⁶

16. According to both the Commissioner and Receiver, there are insufficient funds in the Pooled Trust Account to make full restitution to all parties, including the Borrowers, whose trust funds were deposited by Sentinel into the Pooled Trust Account. Since issuing the Liquidation Notice on June 18, 2004, the Receiver has not disbursed

any funds which were received and deposited into the Pooled Trust Account prior to May 18, 2004.

17. Borrowers, Chancellor and LSS recognize the dilemma faced by the Receiver and the inability to disburse funds from the Pooled Trust Account at this early stage of the Liquidation Proceeding. As a result, by this Motion the Movants do not currently seek a release of any portion of the funds currently held in the Pooled Trust Account. Borrowers, Chancellor and LSS expressly reserve any rights which they may have in and to the Pooled Trust Account and any additional proceeds which the Receiver may recover with respect to disbursements made out of the Pooled Trust Account.

18. The Borrowers have begun depositing funds with the successor Trustee for distribution to Bond Holders. Further, the Borrowers have requested the Receiver provide detailed contact information (i.e., Bond Holder names and addresses) which information is essential for the successor Trustee to begin fulfilling its responsibilities under the Indenture Trusts.

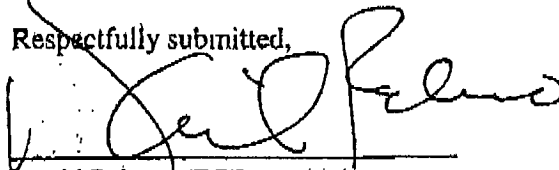
For the foregoing reasons, the Borrowers and Chancellor respectfully request this Court to issue an Order authorizing and directing the Receiver to (i) execute and deliver an instrument or document transferring to the successor Trustee all of the trusts, properties, remedies, powers, rights, duties, obligations, discretions, privileges, claims, demands, causes of action, immunities, estates, titles, interests and liens of Sentinel Trust Company, as the predecessor Trustee and predecessor Registrar; (ii) and take any other action necessary to duly assign, transfer and deliver to the successor Trustee all property (excluding funds which may be on deposit in the Pooled Trust Account); and, (iii) take

⁶As indicated, Borrowers had previously deposited with Sentinel Trust Funds totaling \$2,459,545.04.

any other action necessary to duly assign, transfer and deliver to the successor Trustee all property and records (including without limitation, the Register and any cancelled Bonds) held by Sentinel as the Registrar.

Pursuant to Rule 62.01 of the Rules of Civil Procedure, your Movants pray that the Order not be stayed after entry. Further, your Movants request this Motion be set for hearing on August 9, 2004.

Respectfully submitted,



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